

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE K.C. BHANU

WRIT PETITION NO : 11979 of 2005

Between:

M/s K. Yellaiah & Sons, Works Contractors, Pragati Nagar, Nizamabad, Nizamabad District, Andhra Pradesh, Rep. by its Partner Sri K. Ramesh S/o Late Sri K. Yellaiah

..... PETITIONER

AND

- 1 The Commercial Tax Officer-III, Nizamabad.
- 2 The Appellate Deputy Commissioner of Commercial Taxes,

Secunderabad Division, Hyderabad, 5th Floor,
Commercial Tax Buildings, Opp: Gandhi Bhavan, Nampally,

Hyderabad.

- 3 The Executive Engineer (R&B) Division, Nizamabad.
- 4 The Executive Engineer (R&B) Division, Bodhan.
- 5 The Executive Engineer (P.A), Nizamabad
- 6 The Executive Engineer (P.R) Division, Nizamabad
- 7 The Executive Engineer (R&B) NH. Division, Perkit, Nizamabad

District.

- 8 The Executive Engineer (R&B) Adilabad Division, Head Quarters

at Nirmal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction or order especially in the nature of writ of Mandamus declaring the action of the 1st Respondent in issuing the impugned notice dated 18-5-2005

under Section 17 of the Andhra Pradesh General Sales Tax Act, 1957 calling upon Respondents 3 to 8 to pay a sum of Rs. 32,36,006/- said to be the dues of Sales tax for assessment years 2004-05, 2003-04 and 2000-01 under Andhra Pradesh General Sales Tax Act, 1957 to the 1st Respondent as illegal, arbitrary and against the settled principles of law and pass such other order(s) as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner:MR.S.RAVI

Counsel for the Respondents 1 &2 : GP FOR COMMERCIAL TAX

Counsel for Respondents 3 to 8:-----

The Court at the stage of admission made the following :

O R D E R (Per the Hon'ble Sri Bilal Nazki, ACJ):

-

It is submitted that without service of assessment order for the assessment year 2003-2004, a notice has been issued to pay the sales tax dues for the assessment years 2004-2005, 2003-2004 and 2000-2001. Learned counsel for the respondents 1 and 2 submits that the copy of the assessment order was sent through Special Messenger as well as by registered post with acknowledgment due, but it was returned unserved. As on today, there is no appeal pending for the assessment year

2003-2004, but it is stated across the Bar that appeal is pending for the assessment year 2004-2005 and appeal with regard to the assessment year 2000-2001 was allowed and remanded to the assessing authority. In these circumstances, we direct that for the assessment year 2004-2005, there shall be stay of recovery till the stay application pending before the Appellate Authority is decided and with regard to assessment year 2000-2001 necessary order shall be passed by the assessing authority, to which the case has been remanded.

With these observations, with the consent of the parties, the writ petition is disposed of. No order as to costs.

(Bilal Nazki, ACJ)

16th June, 2005.

(K.C.Bhanu, J)

Note: Issue C.C in two days

B/o

vrn

To

- 1 The Commercial Tax Officer-III, Nizamabad.
- 2 The Appellate Deputy Commissioner of Commercial Taxes,

Secunderabad Division, Hyderabad, 5th Floor,
Commercial Tax Buildings, Opp: Gandhi Bhavan, Nampally,

Hyderabad.

- 3 The Executive Engineer (R&B) Division, Nizamabad.
- 4 The Executive Engineer (R&B) Division, Bodhan.
- 5 The Executive Engineer (P.A), Nizamabad
- 6 The Executive Engineer (P.R) Division, Nizamabad
- 7 The Executive Engineer (R&B) NH. Division, Perkit, Nizamabad

District.

- 8 The Executive Engineer (R&B) Adilabad Division, Head Quarters

at Nirmal.

9 Two C.Cs to the G.P. for Commercial Taxes, High Court
Buildings, A.P., Hyderabad (OUT)

10 2 CD copies

11 1 CC to MR.RAVI